



Revenue Laws Study Committee

January 29, 2020

Room 1228 Legislative Building

9:30 AM

The Revenue Laws Study Committee met on Wednesday, January 29th at 9:30am. The meeting was held in Room 1228 of the Legislative Building in Raleigh. Representative Julia Howard presided. Members present were: Representative Julia Howard, Chair, Senator Paul Newton, Chair, Senator Ralph Hise, Vice Chair, Representative Stephen Ross, Vice Chair, Senator Jerry Tillman, Vice Chair, Representative Kelly Alexander, Representative Dana Bumgardner, Senator Ben Clark, Senator Chuck Edwards, Senator Toby Fitch, Senator Ralph Hise, Representative Chris Humphrey, Representative Robert Reives, Representative Mitchell Setzer, and Representative Harry Warren. Cindy Avrette, Trina Griffin, Nicholas Giddings and Greg Roney of the Legislative Analysis Division and Rodney Bizzell, Denise Canada, Emma Turner, Jonathan Tart, Barry Boardman, and Susie Camilleri of the Fiscal Research Division were also present. Cameron Dawson, Cody Huneycutt, Justus Cochran, Committee Clerks, were present.

I. Welcome and Introductions.

Representative Howard called the meeting to order at 9:30am and welcomed members, staff, and visitors in attendance. Representative Howard introduced the Sergeants-At-Arms, David Leighton, Jim Moran, Reggie Sills, Sheree Hedrick, and Hal Roach. Representative Howard offered no further opening remarks.

Representative Howard recognized Trina Griffin, Legislative Analysis Division, to briefly remind members and visitors how to access committee information on the committee website.

II. State and Local Revenue Overview

Representative Howard recognized Emma Turner, Fiscal Research Division to present an overview of the state and local tax revenue sections and a brief review of North Carolina tax policies.

Senator Tillman made a statement regarding filing of personal taxes.

Senator Tillman made a statement pertaining to the franchise tax in the state.

Senator Fitch offered a follow up comment concerning the purpose of the committee.

Representative Howard requested that members hold their questions until the presenter has completed their presentation.

Following the presentation, Representative Howard opened the floor to questions from the committee.

Senator Brown asked how much the capped home mortgage interest and property tax payments affected S Corporations. Jonathan Tart, Fiscal Research Division, answered that those itemized deductions would not impact S Corporations.

Representative Warren requested more information about the trends of the motor fuels tax revenues over previous years. Mrs. Turner responded that she would pride him with that information.

Representative Humphrey asked if information was available for the highest and lowest tax rates by city or municipality. Rodney Bizzell, Fiscal Research Division, answered that he did not have the information readily available, but would provide it to Representative Humphrey.

III. State and Local Sales Tax Overview

Representative Howard recognized Denise Canada, Fiscal Research Division to give a brief overview of the sales and use taxes imposed in North Carolina and by local governments.

Senator Brown commented that the lowest percentage distribution of Article 40 was Columbus County. Denise confirmed this was correct.

Senator Brown asked about the potential uses of the revenue generated by ballot tax initiatives. Mrs. Canada responded that they were for any lawful purpose, but could be earmarked.

Senator Tillman asked about the end date of a sales tax enacted by voters. Denise responded that there was no end for these types of taxes.

Senator Tillman asked if ballot language for a sales and use tax could be made for a specific purpose. Denise answered that language could be drawn for a specific purpose, but would have to pass in a local bill.

Following the presentation, Representative Howard opened the floor to additional questions from the committee.

Representative Reives asked a question regarding adjustment factors. Denise responded that money would be moved between different counties.

Representative Reives asked a follow up question about which counties would benefit and which would be harmed. Denise answered that this issue would be covered more completely in the upcoming Revenue Laws Study Committee meeting.

Representative Bumgardner requested more information about the grocery tax. Denise responded that she would provide more information to the committee.

Representative Bumgardner asked a follow up question asking for grocery tax information from a more specific time. Denise answered that the Fiscal Research team would research it.

IV. Finance Changes 2019

Representative Howard recognized Nicholas Giddings, Legislative Analysis Division to address the Committee regarding Finance changes in 2019 and pertinent bills enacted in the previous year.

Senator Tillman requested Mr. Giddings provide more detail about the local option sales tax flexibility.

Senator Tillman asked if counties were able to exceed the one quarter cent local option sales tax threshold and increase it to one half cent. Mr. Giddings responded that under Article 46, it was

restricted to only one quarter cent, but there was currently a bill that, if enacted, would allow for a higher tax to be voted on.

Following the presentation, Representative Howard opened the floor to further questions from the committee.

V. IRC Update and Draft Proposal

Representative Howard recognized Jonathan Tart, Fiscal Research Division to present the Internal Revenue Code updates and to explain a draft proposal to the committee.

Following the presentation, Representative Howard opened the floor to questions from the committee.

Senator Tillman asked about the intention of the Chair to couple or decouple with the federal changes regarding the medical expense deduction threshold in the Internal Revenue Code updates. Mr. Tart responded that the bill draft distributed to the committee did conform to that change.

Senator Hise asked if the medical expense deduction was for the entire amount spent on medical expenses or only the amount exceeding the threshold.

Mr. Tart responded that only the amount spent after reaching the threshold was eligible for the deduction.

Senator Hise asked for a clarification of the federal Internal Revenue Code issues that North Carolina is not coupling with. Mr. Tart responded that those issues were the cancellation of debt on a personal residence, deduction for mortgage insurance premiums and the deduction for tuition expenses.

Representative Reives asked if there was recent action regarding the medical expense deduction. Representative Howard confirmed that there was action in the House regarding that issue.

VI. Kaestner Overview

Representative Howard recognized Greg Roney, Legislative Analysis Division to present an overview and update on the Kaestner case and the taxation of trusts in North Carolina.

Following the presentation, Representative Howard opened the floor to questions from the committee.

Representative Warren asked for clarification on trust and beneficiary location in the state. Mr. Roney responded that the state taxes trusts based on the location of the beneficiary and the presence of the assets.

Representative Warren asked a follow up question regarding the possibility of a tax for a trust located in the state and a beneficiary residing outside the state. Mr. Roney responded that the US Supreme Court cleared the trustee and trust office presence as basis for taxation.

Senator Hise asked if a trust was established and a distribution of the trust was made to a beneficiary, were those funds were taxable. Mr. Roney confirmed that those funds are taxable, that North Carolina follows federal rules and a beneficiary would receive paperwork to describe how much is taxable.

Senator Hise asked a follow up question about the potential impact to the state if North Carolina were to begin taxing trust holdings, such as stocks, differently than other states. Mr. Roney responded that the basis in North Carolina is the location of the beneficiary alone to determine taxation.

Senator Fitch inquired as to the timeframe that the Department of Revenue had to review this issue. Mr. Roney responded that the decision from the Supreme Court was less than a month old.

and that the Department of Revenue had sent a questionnaire to trust beneficiaries regarding this issue. Andrew Casper, General Counsel, Department of Revenue confirmed that the Department had sent out information requests and was awaiting the responses.

Senator Fitch asked a follow up question regarding language of the questions asked by the Department of Revenue of the trust beneficiaries. Mr. Casper provided clarification of the questions asked.

Representative Howard requested that a copy of the questions be sent to central staff. Mr. Casper responded that the Department of Revenue would provide information to the committee.

Senator Newton asked if legislation was needed to assist in the enforcement of the possible changes in taxation of individuals in this situation. Mr. Casper responded that the Department of Revenue is internally considering if legislation is necessary but has not made a decision.

Senator Newton made a follow up comment that, if the Department of Revenue decided that new language was needed, that it be sent to central staff to be properly evaluated for potential unintended consequences.

Senator Brown asked how this case may affect land trusts. Mr. Roney responded that this case would not affect a trust that has land located in North Carolina.

Senator Brown asked a follow up question about the formula used to determine the tax on land trusts. Mr. Roney responded that North Carolina follows federal regulations to determine the applicable tax.

Senator Tillman made a statement regarding property tax calculations.

Senator Tillman asked if land in a trust that did not produce income was taxed. Senator Brown agreed and asked if the land was sold, would the trust be taxed as capital gain or something different. Mr. Roney responded that North Carolina did not provide preferential rates for taxation and that the state follows federal guidelines regarding these situations. Jonathan Tart, Fiscal Research Division, added that land in North Carolina in a trust is eligible for this tax only if it generates income.

Senator Fitch made a statement to the committee regarding the types of taxation for land.

Representative Kidwell made a statement about trust income taxation.

Representative Kidwell asked if the trustee in this case was able to request enough money from the trust to cover applicable taxes. Mr. Roney responded that the trustee did not request this because she was not aware that the trust had paid the tax and had filed for a reimbursement with the Department of Revenue.

Representative Kidwell made a follow up statement about previously taxed retained earnings.

Representative Bumgardner asked if lands held in trusts were paying property tax. Mr. Roney confirmed that they are.

Representative Howard reminded the committee that this meeting was solely for informational purposes and that a decision on potential action, if needed, would happen at a later date.

Representative Ross made a statement to the committee about this case's impact on undistributed income.

Representative Hastings asked if the new determination for taxation would allow for someone to easier avoid the tax. Mr. Roney responded that any time a specific marker is used in statute, an individual may attempt to avoid that specific threshold.

VII. Committee Questions

Representative Howard recognized Cindy Avrette, Legislative Analysis Division, to address the Committee to answer questions asked by members earlier in the meeting.

Representative Bumgardner asked for additional information regarding the grocery tax. Mrs. Avrette responded that she would provide additional information.

VIII. Adjournment

There being no further business, the meeting adjourned at 10:58 AM. The next meeting will be held on Wednesday, February 12, 2020 at 9:30 AM in 1228 of the Legislative Building

Representative Julia Howard
Presiding

Cameron Dawson
Committee Clerk